

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U 338-E) For Authority to, Among Other Things, Increase Its Authorized Revenues For Electric Service in 2003, And to Reflect That Increase in Rates.

Application 02-05-004
(Filed May 3, 2002)

Investigation on the Commission's Own Motion into the Rates, Operations, Practices, Service and Facilities of Southern California Edison Company.

Investigation 02-06-002
(Filed June 6, 2002)

**ADMINISTRATIVE LAW JUDGE'S RULING
REGARDING OUTSTANDING MOTIONS
AND OTHER PENDING MATTERS**

1. Motion to Intervene

On May 12, 2003, Peabody Western Coal Company (Peabody) filed a motion to intervene out of time in this proceeding. Peabody supplies the coal that fires Southern California Edison Company's (SCE) Mohave Generating Station, and it has an interest in the continued operation of that facility. Peabody seeks to ensure that SCE does not receive approval for any rate issues in this proceeding that would serve to undermine or preempt a Commission decision in Application (A.) 02-05-046, which addresses the disposition of the Mohave Station after 2005. SCE opposes Peabody's motion on the grounds that it is late and that it fails to state any contention pertinent to the issues in this forum.

This proceeding will not yield a determination regarding the future disposition of the Mohave Station after 2005, and the ratemaking determinations that will be made in this proceeding are limited to funding for the operation of the facility through 2005. Peabody has not demonstrated that any of the record evidence or any of the parties' recommendations support an alternative conclusion. Accordingly, Peabody has not raised any contention reasonably pertinent to the issues already presented. The motion will therefore be denied.

2. Identification and Receipt of Exhibits

SCE and San Diego Gas & Electric Company (SDG&E) submitted update testimony on May 9, 2003. SCE also submitted workforce diversity testimony on the same date in response to rulings of April 8 and May 5, 2003. The exhibits are hereby identified as follows:

Sponsoring Party	Witness	Description	Exhibit No.
SCE	Dominski, Perez	May 9, 2003 Update Testimony, Volume I (excluding stricken material, see below)	411
SCE, ORA	Hunt, Nervig	May 9, 2003 Update Testimony, Volume II	412
SCE	Mines	2003 General Rate Case – Supplemental Testimony on Workforce Diversity	413
SDG&E	Olson	Prepared Update Testimony of San Diego Gas & Electric Company (excluding stricken material, see below)	414

With the exception of testimony that is the subject of a motion to strike, which motion is granted by this ruling (see below), no party has requested hearings with respect to either the workforce diversity testimony or the update testimony. There being no need for hearings, Exhibits 411 through 414 will be received in evidence by this ruling.

3. Motion to Strike

On April 29, 2003, the Nuclear Regulatory Commission (NRC) issued new orders directing commercial nuclear power plant operators to modify work hours and training and fitness requirements for security employees, and the plants' Design Basis Threat. In its May 9 update testimony, SCE preliminarily estimated that the April 29 NRC orders will require an additional \$20 to \$30 million in capital expenditures and an additional \$1 to \$2 million in expenses at the San Onofre Nuclear Generation Station (SONGS). SCE requests authorization to recover the newly created costs as part of its proposed Post Test Year Ratemaking mechanism for 2004 and 2005. SDG&E's update testimony makes related requests pertaining to SDG&E's share of SONGS.

On May 16, 2003, Aglet Consumer Alliance, the Office of Ratepayer Advocates, and the Utility Reform Network (Joint Parties) filed a joint motion to strike those portions of the update testimony submitted by SCE and SDG&E that pertain to the recent NRC security orders.¹ As grounds for the motion, Joint Parties contend that the subject testimony exceeds the permissible scope of update testimony and that there is inadequate time to examine and analyze it. In communications to the Administrative Law Judge regarding the need for update hearings, two of the Joint Parties requested that, if the motion to strike is denied, evidentiary hearings be scheduled after there has been adequate time for discovery and analysis.

¹ Specifically, the Joint Parties seek to have stricken pp. 7-8 and Attachment 2 of SCE's May 9, 2003 Update Testimony, Volume I (Exhibit 411). They also seek to have stricken the paragraph at p. 1, lines 26-31; Section VI at p. 8, lines 1-14; and the paragraph at lines 1-4 on p. 9 of SDG&E's Update Testimony (Exhibit 414).

The rate case plan adopted in Decision (D.) 89-01-040 provides that update testimony is permitted to address, among other things, “[k]nown changes due to government action such as changes in tax rates, postage rates, or assessed valuation.” (D.89-01-040, 30 CPUC2d 576, 609.) SCE relies upon this provision in seeking to have its testimony regarding the new NRC requirements considered in update hearings.

SCE was not able to state with any precision the cost and revenue requirement changes that it believes will result from the NRC orders. SCE’s testimony states that the company is still in the process of reviewing the revised Design Basis Threat to determine the physical changes needed at SONGS. In its response to the motion to strike, SCE acknowledges that it has “discretion on precisely how to cost-effectively meet the requirements of the April 29 NRC Orders,” and that it “has not yet been able to fully identify the precise scope of work and the associated cost estimates.” (SCE Response, p. 5.) Finally, SCE’s estimates of compliance costs are admittedly preliminary, and they fall within very broad ranges (\$20 to \$30 million in capital expenditures and \$1 to \$2 million in expenses).

The fact that the NRC has issued new orders may be known, but the full impact of those orders is not yet known, even to SCE. The subject testimony clearly fails to set forth “known changes” that are “due to” the NRC’s action, is incomplete for purposes of establishing the Phase 1 revenue requirement, and is inconsistent with the rate case plan. SDG&E’s update testimony is similarly deficient.

Strict adherence to the rate case plan is not required, and it would be possible to once again extend the Phase 1 processing schedule.² However, in view of the delays that have already been encountered in this proceeding, and in order that the Commission might issue a Phase 1 decision before the end of this year, the motion to strike the NRC-related testimony will be granted. This ruling is without prejudice to the Commission's consideration of SCE's May 21, 2003 motion to establish a balancing account for certain SONGS 2 & 3 security costs, and any related proposal that SDG&E places before the Commission.³

4. Disposition of Memorandum Account

D.03-05-076 dated May 22, 2003 granted, in part, SCE's earlier motion to establish a memorandum account to track the requested revenue requirement between May 22, 2003 and the date of a final decision in Phase 1 of this proceeding. While it approved the proposed memorandum account, the Commission dismissed without prejudice those provisions of the motion that pertained to the disposition of the memorandum account balance and associated rate recovery thereof.

² Such an extension would be needed to permit SCE and SDG&E to file complete update testimony once they have had an opportunity to determine the impact of the NRC orders, and to then schedule update hearings after parties have had reasonable opportunity for discovery and analysis.

³ SCE filed the motion for a balancing account concurrently with its response to the Joint Parties' motion to strike. It is not clear that SCE intends that the motion for a balancing account be considered separately and apart from the disputed testimony. To the extent, if any, that SCE's balancing account motion assumes or relies upon a ruling denying the motion to strike, and to that extent only, this ruling granting the motion to strike *is* with prejudice.

To provide the Commission with a complete and current record on which to enter an order regarding disposition of the balance of the authorized memorandum account, I will direct SCE to file a motion setting forth its proposal for such disposition. SCE should renew or modify its earlier proposal as it deems appropriate. I ask that SCE address any implementation issues that are or may be associated with the issuance of a Commission decision in A.03-01-019, in which SCE seeks to lower and adjust retail rates upon recovery of the Procurement Related Obligations Account (PROACT). I am particularly interested in proposals for avoiding or mitigating confusion among customers, who may see significant rate reductions as a result of PROACT recovery, followed by rate changes that may result from a Phase 1 GRC decision; or, alternatively, an explanation why such proposals are unnecessary.

SCE should file the requested motion within five days after the date that the Commission issues a decision in A.03-01-019 that addresses the recovery of the PROACT balance, but in no event later than July 15, 2003.⁴ I anticipate that Phase 1 of this proceeding will stand submitted upon the filing of responses to the motion requested herein.

5. Final Oral Argument

In accordance with the procedure established pursuant Rule 8(d) of the Rules of Practice and Procedure, SCE has requested that final oral argument before a quorum of the Commission be convened. Parties will be notified of the date, time, and location of the final oral argument, as well as any determination

⁴ A draft decision is on the Commission's agenda for June 19, 2003 (Agenda ID No. 2264, Agenda Item No. 5.)

that may be made regarding the format and procedural ground rules for the argument.

IT IS RULED that:

1. The motion of Peabody Western Coal Company to intervene is denied.
2. Exhibits 411 through 414 are identified as set forth above, and are received in evidence.
3. The joint motion of Aglet Consumer Alliance, the Office of Ratepayer Advocates, and the Utility Reform Network to strike portions of the update testimony of Southern California Edison Company (SCE) and San Diego Gas & Electric Company (SDG&E) is granted. This ruling is without prejudice to the Commission's consideration of SCE's May 21, 2003 Motion to Establish a Balancing Account for Certain SONGS 2 & 3 Security Costs, and any related filing that SDG&E may make before the Commission.
4. SCE shall, in accordance with the foregoing discussion, file a motion setting forth its proposal for disposition of the balance in the memorandum account authorized by Decision 03-05-076.

Dated June 10, 2003, at San Francisco, California.

/s/ MARK S. WETZELL

Mark S. Wetzell
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Regarding Outstanding Motions and Other Pending Matters on all parties of record in this proceeding or their attorneys of record. In addition, service was also performed by electronic mail.

Dated June 10, 2003, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.